

RESOLUTION NO. A-_____

USE PERMIT NO. 133

1 WHEREAS, Stockwell Properties, LLC has submitted an application in
2 accordance with Section 27.31.100 of the Lincoln Municipal Code designated as Use Permit
3 No. 133 to develop 40,000 square feet of office and commercial floor area, including requested
4 waivers of the Zoning Code and Land Subdivision Ordinance in order to waive the
5 preliminary plat process, to reduce front and rear yard setbacks from 50' to 25', to waive
6 paving with curb and gutter and sidewalks along South Coddington Avenue and West
7 Van Dorn Street, to waive the requirement that all lots have frontage and access to a
8 public street or private roadway, to waive the minimum lot frontage required for a
9 ground sign, to allow signs in the front yard, to allow signs more than 30 feet from a
10 building, to waive street trees along South Coddington Avenue and West Van Dorn
11 Street, to waive landscaping in required yards, malls and open spaces, and to allow
12 parking in the front yard, on property generally located northeast, southeast and southwest of
13 the intersection of West Van Dorn Street and South Coddington Avenue, legally described to
14 wit:

15 Outlot A, Lee's Place 3rd Addition, in the Southeast Quarter of
16 Section 33, Township 10 North, Range 6 East of the 6th P.M.; and
17 Lot 36 and a portion of Lot 40, both located in the Northeast
18 Quarter of Section 4, Township 9 North, Range 9 East of the 6th
19 P.M., Lancaster County, Nebraska, generally located at South
20 Coddington Avenue and West Van Dorn Street; and

21 A portion of Lot 40, located in the Northeast Quarter of Section 4,
22 Township 9 North, Range 6 East of the 6th P.M., Lancaster
23 County, Nebraska, more particularly described as follows:

24 Commencing at the northwest corner of said Northeast Quarter;
25 thence on the west line of said Northeast Quarter, on an assumed
26 bearing of south 00 degrees 00 minutes 05 seconds west, a
27 distance of 50.00 feet; thence north 89 degrees 33 minutes 51
28 seconds east, a distance of 300.00 feet; thence north 84 degrees

1 42 minutes 54 seconds east, a distance of 187.30 feet to the point
2 of beginning; thence continuing north 84 degrees 42 minutes 54
3 seconds east, a distance of 13.81 feet; thence north 89 degrees
4 33 minutes 51 seconds east, a distance of 104.66 feet; thence
5 south 00 degrees 26 minutes 09 seconds east, a distance of
6 478.49 feet; thence south 89 degrees 33 minutes 51 seconds
7 west, a distance of 575.56 feet; thence north 00 degrees 00
8 minutes 05 seconds east, a distance of 25.00 feet; thence north
9 89 degrees 33 minutes 51 seconds east, a distance of 453.51
10 feet; thence north 00 degrees 00 minutes 05 seconds east, a
11 distance of 452.34 feet to the point of beginning; said tract
12 contains an area of 1.581 acres, more or less;

13 WHEREAS, the real property adjacent to the area included within the site plan
14 for this construction of office and commercial buildings will not be adversely affected; and

15 WHEREAS, said site plan together with the terms and conditions hereinafter set
16 forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to
17 promote the public health, safety, and general welfare.

18 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
19 Lincoln, Nebraska:

20 That the application of Stockwell Properties, LLC, hereinafter referred to as
21 "Permittee", to develop 40,000 square feet of office and commercial floor area be and the same
22 is hereby granted under the provisions of Section 27.31.100 of the Lincoln Municipal Code upon
23 condition that construction and operation of said office and commercial space be in strict
24 compliance with said application, the site plan, and the following additional express terms,
25 conditions, and requirements:

- 26 1. This permit approves 40,000 square feet of commercial floor area.
- 27 2. This permit approves the following waivers to the Zoning Code and Land
28 Subdivision Ordinance:
 - 29 a. The requirement of Lincoln Municipal Code § 27.31.090 requiring
30 a 50' front yard and rear yard is modified to reduce the required
31 front and rear setbacks from 50' to 25' for that portion of the
32 development north of West Van Dorn Street

- b. The requirement of Lincoln Municipal Code § 26.23.140 requiring every lot to front upon and take access to a public street or private roadway is waived.
- c. The requirement of Lincoln Municipal Code § 27.69.046(c) requiring 300 feet of street frontage for a ground sign is waived.
- d. The requirement of Lincoln Municipal Code § 27.69.046(d) requiring pad site ground signs to be located within 30' from a building is waived.
- e. The requirement of Lincoln Municipal Code § 27.67.030(a) prohibiting parking in the front yard is waived.
- f. The requirement of Lincoln Municipal Code § 26.11.020 that a preliminary plat is required for a subdivision is waived, provided that if any final plat on all or a portion of the approved use permit is submitted five (5) years or more after approval of the use permit, the City may require that a new use permit be submitted, pursuant to all the provisions of § 26.31.015. A new use permit may be required if the subdivision ordinance, the Design Standards, the required improvements have been amended by the City; and as a result, the use permit as originally approved, does not comply with the amended rules and regulations.
- g. The requirement of Lincoln Municipal Code § 26.23.095 requiring sidewalks to be installed on the side of the street abutting the subdivision is waived along South Coddington Avenue.

3. The Permittee must revise the site plan to show:

- a. All required street trees including along Southwest 19th Street.
- b. Add a general note that states "All required landscaping for individual lots will be reviewed at time of building permits. All landscaping will be provided in compliance with City of Lincoln Design Standards."
- c. Show the bike trail along South Coddington Avenue.
- d. Add a general note stating "The grant of an aviation and noise easement to the Lincoln Airport Authority is a condition of approval for this use permit as all or part of the land is located within the Airport Environs Noise District and potentially subjects the land to aircraft noise levels high enough to annoy uses of the property and interfere with its unrestricted use."
- e. Show sidewalks along West Van Dorn Street and Southwest 19th Street.

- 1 f. Show the future sidewalk connection to the Bison Trail extended
2 to the south boundary of the use permit.
3 g. Remove sign envelopes and revise Note 26 to state, "All signs
4 shall be in compliance with Chapter 27.69 of the L.M.C., except
5 signage may be located more than 30 feet from pad site
6 buildings."
7
8 h. All required landscaping per the Design Standards.
- 9 4. A revised water plan must be submitted and approved by Public Works.
- 10 5. Provide utility easements per the LES 8/2/04 review.
- 11 6. Make corrections per the Public Works and Utilities review.
- 12 7. Final plats may be approved after the Permittee has completed or posted
13 a surety to guarantee the completion of the private roadway improvements, sidewalks, sanitary
14 sewer system, water system, drainage facilities, land preparation and grading, sediment and
15 erosions control measures, storm water detention/retention facilities, drainage way
16 improvements, street lights, landscaping screens, street trees, temporary turnaround and
17 barricades, and street name signs.
- 18 8. The Planning Director may approve final plats after the Permittee has
19 signed an agreement that binds the Permittee and the Permittee's successors and assigns:
- 20 a. To complete the street paving of Southwest 19th Street within two
21 years following the approval of this final plat.
- 22 b. To complete the installation of sidewalks within four years
23 following the approval of this final plat, except sidewalks along
24 South Coddington Avenue and West Van Dorn Street, provided
25 the Permittee has contributed an amount equivalent to the cost of
26 installing said sidewalks along South Coddington Avenue and
27 West Van Dorn Street to the City.
- 28 c. To complete the public water distribution system within two years
29 following the approval of this final plat.
- 30 d. To complete the public wastewater collection system within two
31 years following the approval of this final plat.
- 32
33 e. To complete the enclosed public drainage facilities within two
34 years following the approval of this final plat.

- 1 f. To complete the enclosed private drainage facilities within two
2 years following the approval of this final plat.
- 3 g. To complete land preparation including storm water
4 detention/retention facilities and open drainageway improvements
5 prior to the installation of utilities and improvements but not more
6 than two years following the approval of this final plat.
- 7 h. To complete the installation of public street lights within two years
8 following the approval of this final plat.
- 9 i. To complete the planting of the street trees within four years
10 following the approval of this final plat, except street trees along
11 South Coddington Avenue and West Van Dorn Street, provided
12 the owner has contributed an amount equivalent to the cost of
13 installing said street trees along South Coddington Avenue and
14 West Van Dorn Street to the City.
- 15 j. To complete the planting of the landscape screen two years
16 following the approval of this final plat.
- 17 k. To complete the installation of the street name signs within two
18 years following the approval of this final plat.
- 19 l. To complete the installation of the permanent markers prior to
20 construction on or conveyance of any lot in the plat.
- 21 m. To complete any other public or private improvement or facility
22 required by Chapter 26.23 (Development Standards) of the Land
23 Subdivision Ordinance in a timely manner which inadvertently may
24 have been omitted from the above list of required improvements.
25
- 26 n. To submit to the Director of Public Works a plan showing
27 proposed measures to control sedimentation and erosion and the
28 proposed method to temporarily stabilize all graded land for
29 approval.
- 30 o. To complete the public and private improvements shown on Use
31 Permit #133.
- 32 p. To maintain the outlots and private improvements on a permanent
33 and continuous basis; to recognize that there may be additional
34 maintenance issues or costs associated with providing for the
35 proper functioning of stormwater detention/retention facilities as
36 they were designed and constructed within the development and
37 these are the responsibility of the Permittee, and to retain
38 ownership of or the right of entry to the outlots in order to maintain
39 the outlots and private improvements on a permanent and
40 continuous basis. However, the Permittee may be relieved and
41 discharged of such maintenance obligations only upon creating, in
42 writing, a permanent and continuous association of property

owners who would be responsible for said permanent and continuous maintenance subject to the following conditions:

(i) Permittee shall not be relieved of Permittee's maintenance obligation for each specific private improvement until a registered professional engineer or nurseryman who supervised the installation of said private improvement has certified to the City that the improvement has been installed in accordance with approved plans; and

(ii) The maintenance agreements are incorporated into covenants and restrictions in deeds to the subdivided property and the documents creating the association and the restrictive covenants have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.

q. To continuously and regularly maintain the landscape screens.

r. To submit to the lot buyers a copy of the soil analysis.

s. To pay all design, engineering, labor, material, inspection, and other improvement costs except paving, curb and gutter in South Coddington Avenue and West Van Dorn Street.

u. To comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.

v. To protect the trees that are indicated to remain during construction and development.

w. To properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development, and that these are the responsibility of the Permittee.

x. To relinquish the right of direct vehicular access from West Van Dorn Street, South Coddington Avenue, and Southwest 19th Street except as shown on Use Permit #133.

y. To inform all prospective purchasers and users that the land is located within the Airport Environs Noise District, that the land is subject to an avigation and noise easement granted to Lincoln Airport Authority, and that the land is potentially subject to aircraft noise levels high enough which may affect users of the property and interfere with its unrestricted use.

9. Before occupying the buildings units all development and construction

1 shall have been completed in compliance with the approved plans.

2 10. All privately-owned improvements shall be permanently maintained by the
3 owner or an appropriately established homeowners association approved by the City Attorney.

4 11. The site plan approved by this permit shall be the basis for all
5 interpretations of setbacks, yards, locations of buildings, location of parking and circulation
6 elements, and similar matters.

7 12. This resolution's terms, conditions, and requirements bind and obligate
8 the permittee, its successors and assigns.

9 13. The applicant shall sign and return the letter of acceptance to the City
10 Clerk within 30 days following the approval of the special permit, provided, however, said 30-
11 day period may be extended up to six months by administrative amendment. The clerk shall file
12 a copy of the resolution approving the special permit and the letter of acceptance with the
13 Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2005:

Mayor